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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/477,876	01/05/2000	CHRISTOPHER M. HERRING	P04658	9857

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EXAMINER

HYUN, SOON D

ART UNIT	PAPER NUMBER
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2663

DATE MAILED: 01/15/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/477,876

Applicant(s)

HERRING ET AL.

Examiner

Soon-Dong Hyun

Art Unit

2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 22-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 22-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claim 1, line 6, the added claimed subject matter “independent of user control” is not described in the specification, and therefore, the claimed subject matter is new matter.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-6 and 22-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 6, the claimed subject matter “independent of user control” renders the claim indefinite.

In claim 26, line 10, the claimed subject matter “user’s perspective” renders the claim indefinite.

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-6 and 22-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Preston et al (U.S. Patent No. 6,493,338).

Regarding claims 1 and 26, Preston et al discloses a system for concurrent wireless voice and data communications comprising:

a first transceiving unit (38) tethered to a voice network (42) and to a data network (46);

a second, mobile transceiving unit (14);

the first transceiving unit combines and transmits to the second, mobile transceiving unit independent of user control, i.e., the first transceiving unit combines and transmit without intervention of user, the voice and data information from the voice and data network,

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respectively, and receives and separates voice and data information from the second, mobile transceiving unit and routes to the voice network and the data network, respectively; and

the second, mobile transceiving unit combines and transmits to the first transceiving unit, voice and data information and receives and separates voice and data information from the first transceiving unit. See col. 3, line 19-col. 4, line 47 and FIG. 1.

However, Preston does not explicitly teach that the first transceiving unit employs multiple frequency, time-division multiple access, time-division-duplex, channels that support concurrent wireless voice and data communications.

It will be apparent to those of skill in the art that variation and modification are possible to use the multiple frequency, time-division multiple access, time-division-duplex, channels for the wireless communication system of Preston as recited in the claims without deviating from the broad principal of the invention. Therefore, it would have been obvious to one having ordinary skill in the art to incorporate the multiple frequency, time-division multiple access, time-division-duplex, channels into Preston.

Regarding claims 2-6, refer to the discussion for the claim 1. However, Preston does not teach that the data network is a V.90 modem or ISDN modem coupled to PSTN, or cable modem coupled to a CATV system, or an Ethernet network as recited in the claims. It will be apparent to those skilled in the art that the data networks could be used for the data network of Preston, because the data networks could transport IP data grams. Therefore, it would have been obvious to one having ordinary skill in the art to incorporate a V.90 modem or ISDN modem coupled to PSTN, or cable modem coupled to a CATV system, or an Ethernet network for the data network.

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Regarding claims 22-25 and 27-35, Preston does not teach a time slot, a frame format and associated frequency as recited in the claims. It will be apparent to those of skill in the art that variation and modification are possible to use a time slot, a frame format and associated frequency for the wireless communication system of Preston as recited in the claims without deviating from the broad principal of the invention. Therefore, it would have been obvious to one having ordinary skill in the art to incorporate the time slot, the frame format and associated frequency into Preston.

Response to Arguments

8. Applicant's arguments filed 10/29/2003 have been fully considered but they are not persuasive.

Regarding claims 1 and 26, Applicant argues that the voice and data communications are not concurrent. The examiner does not agree. With reference to col. 1, lines 59-66, Preston discloses that both audio signals and digital data to another location at same time, i.e., concurrently.

Applicant further argues that Preston requires user intervention to switch from transmitting voice information to transmitting data information with the claimed subject matter "independent of user control". In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., without user intervention to switch) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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Furthermore, refer to the rejection under 35 U.S.C. 112, second paragraph and 35 U.S.C. 103, above.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Soon-Dong Hyun whose telephone number is (703) 305-4550. The examiner can normally be reached on Monday-Friday from 8:30 A.M. to 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen, can be reached on (703) 308-5340.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

11. Any response to this final action should be mailed to:

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Box AF

Commissioner for Patents

P.O. Box 1450

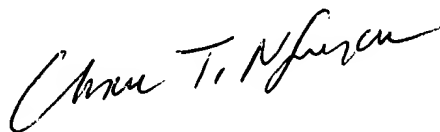
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Or faxed to: 703-872-9306 for formal communications intended for entry with a label of
"EXPEDITED PROCEDURE" for informal or draft communications with a label of
"PROPOSED" or "DRAFT" (attn: Art Unit 2663, Soon-Dong Hyun).



S. Hyun

01/09/2004



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